

**ARIZONA REAL ESTATE ADVISORY BOARD**  
**MINUTES OF MEETING**  
Held January 20, 2005

A meeting of the Arizona Real Estate Advisory Board was held Thursday, January 20, 2005 at the Arizona Department of Real Estate (ADRE), 2910 N. 44<sup>th</sup> Street, First Floor Administration Conference Room, in Phoenix, Arizona.

**I. CALL TO ORDER**

Chairman R. L. Brown called the meeting to order at approximately 10:03 a.m.

Present were:

R. L. Brown, Chairman, Member, Sun City  
Gary Brasher, Vice Chairman, Member, Tubac  
Richard (Dick) Allen, Member, Phoenix  
Gene Cox, Member, Phoenix  
Lisa Suarez, Member, Tucson  
Felipe Zubia, Member, Avondale

Unable to attend: Members Vicki Cox Golder, Gary Lee and Vince Pellerito.

ADRE Staff present:

Elaine Richardson, Commissioner  
Ronald Passarelli, Deputy Commissioner  
Tom Adams, Investigations and Auditing Director  
Amy Bjelland, Administrative Actions Director  
Cindy Ferrin, Subdivisions Deputy Director  
Kevin Goode, Computer Network Administrator  
Todd Madeksza, Education and Licensing Director/Legislative Liaison  
Carla Randolph, Assistant to the Commissioner  
Dick Simmonds, Business Services Director  
Roy Tanney, Subdivisions Director  
Mary Utey, Public Information Officer  
Cindy Wilkinson, Administrative Actions Deputy Director

Public present:

Spencer Kamps, Home Builders Association of Central Arizona  
Tom Farley, Arizona Association of Realtors®  
Stephanie Aguirre, Williams and Associates representing  
Arizona Real Estate Investors Association

**II. MINUTES**

Upon motion by Gary Brasher, seconded by Dick Allen, the Minutes of October 21, 2004 were unanimously approved.

**III. 2005 BOARD MEETING SCHEDULE**

Chairman Brown asked the Board members for their comments on the proposal to hold quarterly Advisory Board meetings. The Board members had no objections to the proposal and the following dates were confirmed for the remainder of the year: April 21, July 21, and October 20, 2005.

A discussion took place on three Board members whose terms expire January 2005. Board members Gene Cox and Dick Allen expressed their interest in reappointment. Gary Lee had decided to retire from the Board after serving three consecutive terms.

#### **IV. FACILITATOR REPORT FROM ADVISORY BOARD MEMBERS**

Chairman Brown asked the Board members to report on their facilitator inquiries. Only a few Board members had received inquiries from the public. Chairman Brown reported that the subject of calls he received had changed to investors who are unhappy with their representation by licensees. Based on an inquiry about severe punishments by ADRE, a discussion took place on the unlicensed activity policy and consequences, as well as the hearing process.

#### **V. RECOGNITION OF GARY LEE'S MEMBERSHIP ON THE BOARD**

Chairman Brown reported that Gary Lee was unable to attend due to the recent hospitalization of a family member but has enjoyed his 18 years on the Board. Chairman Brown commented that Mr. Lee provided great service to the Board for a long-time.

#### **VI. PRESENTATION OF NEW ONLINE LICENSING SYSTEM**

Special Assistant to the Commissioner Dick Simmonds reported that the origination of the online process began about a year ago when the Treasurer's Office introduced legislation that allowed professional licensing agencies to accept credit cards and charge convenience fees. The Government Information Technology Agency (GITA) chose ADRE to participate in the development, design and implementation of a pilot program of an online license system. Kevin Goode, ADRE's Computer Network Administrator, was responsible for a substantial amount of the in-house programming involved in this system.

Mr. Simmonds explained that ADRE was currently in the process of beta-testing (Phase I) its new Online Licensing System with three licensed real estate entities. Mr. Goode and Mr. Simmonds provided a short presentation to Board members on the functionality of the online services. Chairman Brown was impressed with the presentation and called it an "awesome enterprise." Mr. Simmonds relayed ADRE's excitement about the new system and announced a Ribbon Cutting Ceremony

for the Online System on February 14, 2005 (Arizona Statehood Day and Valentine's Day).

## VII. COMMISSIONER'S REPORT

### Online Licensing System

Commissioner Richardson expressed her gratitude to Mr. Simmonds and Mr. Goode for their time, energy, efforts and expertise on developing the new Online Licensing System. Governor Napolitano recognized Mr. Goode at a cabinet meeting for his hard work and dedication to this new service.

### Consumer Guide

Commissioner Richardson proudly announced the new ***Arizona Real Estate and You*** "Consumer Guide" and provided copies to the Board members. This Consumer Guide was designed to help people understand buying or selling a home in laymen's terms. The Guide was even featured in the Arizona Daily Star as "practical information on how to buy a home and plain-language explanations of real estate terms." The Consumer Guide is another way the ADRE carries out its mission of protecting the public.

### Informational Discussions

Commissioner Richardson reported that ADRE has started holding informational discussions monthly (a/k/a Brown Bag Discussions) for ADRE Division Directors and Deputy Directors. The purpose is to cover an array of real estate related topics at no cost to ADRE to help keep staff informed of community and industry trends.

### Arizona-Mexico Commission

Public Information Officer Mary Uteley reported, on behalf of Commissioner Richardson, on the Arizona-Mexico Commission Plenary Session held in December 2004 in Alamos, Sonora, Mexico. Cindy Ferrin also attended the Plenary Session. As a result of Commissioner Richardson's diligence and hard work, a private meeting with Sonora Governor Bours was scheduled. At that meeting, Commissioner Richardson was able to secure Governor Bours commitment to appoint a Sonora Counterpart Committee with Edmundo Chavez as the Chair.

Mary Uteley discussed and distributed the brochure ***Buying Property in Mexico*** that the Real Estate Ad Hoc Committee developed and produced for consumers in Arizona. Also distributed were the Real Estate Ad Hoc Committee Action Items that reflect the great strides this committee has taken.

### **Legislation**

Commissioner Richardson asked Todd Madeksza to give a brief update on the four legislative Bills being monitored by the Department.

Todd Madeksza explained that the H.B. 2183 covered the education fund and explicitly authorized the Commissioner to use the fund for enforcement purposes.

H.B. 2184 and H.B. 2185 pertain to subdivisions and unsubdivided lands and make comparable penalties for subdivided and unsubdivided lands for illegal activities and raise the infractions per violation. The Bills define barrier to include man-made barriers, as recommendations from the subdivision stakeholder committee. Mr. Madeksza explained that, to date, only H.B. 2184 was currently advancing.

These first two bills came out of the House Commerce Committee with no opposition. H.B. 2185 was assigned to the House Committee on Federal Mandates and Property Rights and was not going to receive a hearing at the discretion of the Chair.

The fourth H.B. 2186 updates Recovery Fund language to include payments to professional corporations and professional limited liability companies, as real estate salespersons and brokers may hold their licenses as PCs or PLLCs. This bill has not yet been assigned to a committee.

### **Budget**

Commissioner Richardson informed the Board that she and Mr. Simmonds have been working very hard on the ADRE budget. Deputy Commissioner Ron Passarelli produced several charts and graphs which show ADRE staff workloads and activity. ADRE has produced a three-page timeline of all of the Commissioner's budget related meetings thus far.

The Southern Arizona Home Builders Association (SAHBA) has been extremely supportive of the ADRE.

The Commissioner gave an open invitation to talk to her about the ADRE budget.

Commissioner Richardson reported that the Governor's budget recommendation for ADRE came in at \$3.483 M and the Joint Legislative Budget Committee recommendation came in at \$3.458 M. Both are above ADRE's current appropriation of \$3.208 M. Commissioner Richardson stated that if the ADRE budget increase becomes a reality, she hopes to fill six positions: two in Licensing, two in Subdivisions, and two in Investigations.

### **VIII. REPORT ON DIVISION MONTHLY REPORTS**

Deputy Commissioner Passarelli distributed a new “Monthly Trends” Report and explained the new format of the report and how it shows a compilation of each Division Report for the first six months of the current fiscal year as well as rates of increase and the averages for each month. This report shows what the workload is and what the Divisions are up against based on the burgeoning home building industry throughout the state. ADRE served approximately 4,000 licensees and applicants who personally came to its offices during the month of December. There has also been an increase in salesperson licenses applied for and issued.

Mr. Passarelli expressed his gratitude to each Division for doing their best to keep the “boat afloat” and ensuring the work gets done.

### **IX. OTHER MATTERS**

#### **Real Estate Rules Update**

Rules Liaison Cindy Wilkinson distributed a brief written update summarizing the most recent rules package that will become effective March 5, 2005. Ms. Wilkinson explained how this rule package was the first half of ADRE rulemaking resulting from the Department’s Five Year Rule Review required by statute. Some of the changes that will take effect were derived from the stakeholder committee recommendations, staff recommendations and a Rulemaking Advisory Committee appointed by Commissioner Richardson. A Supplemental to the *Real Estate Law Book* that includes these rule changes will be available in the near future.

Another rulemaking docket was opened recently and will focus primarily on the education and subdivision rules, the second half of the Department's rules reviewed.

Commissioner Richardson thanked Ms. Wilkinson for all her hard work in the rulemaking process in addition to her other duties in the Administrative Actions Division. She also thanked stakeholders and other constituents for their participation in the process.

Chairman Brown reported that he received communication from the Home Builders Association of Central Arizona (HBACA) regarding its concern about certain rule changes in the first rule package.

Spencer Kamps commented that HBACA believes extending the timeframes for the public report review periods was not necessary even though ADRE had constraints and personnel limitations. HBACA felt the solution was to seek more money for the Department from the legislature as opposed to extending the timeframes.

Mr. Kamps stated that with the extension of the timeframes the argument for more money for the Department to meet their timeframes is not persuasive enough at the legislature.

Mr. Kamps mentioned a proposed bill that would increase subdivision fees to fund the ADRE Subdivision Division at 100% or more versus the current 60%, so that other ADRE divisions will not have to subsidize the Subdivision Division's operations.

Commissioner Richardson explained that ADRE accommodated homebuilders concerns by reducing its initial timeframe extension proposal. Instead of increasing the timeframe from **70** to **140** days, it was increased from **70** to **100** days. This was a reduction of over 50% of what ADRE originally proposed. Commissioner Richardson further explained how ADRE kept the HBACA informed about the rulemaking hearing. Most importantly, the Commissioner stated, is that this extension was the cushion that ADRE needed to protect itself and stay within the application timeframes under the current budget crisis. Commissioner Richardson stated that ADRE cannot afford to make mistakes by rushing to meet the timeframes due to the small number of staff in Subdivisions "grinding out" Subdivision Public Reports as fast as they can.

Mr. Kamps stated that the homebuilding industry would rather have the previous timeframes since the homebuilding industry was booming and cannot sell homes without a Public Report. Mr. Kamps believes HBACA will be successful in its legislation to increase the fees to help Subdivision Division's budget.

Tom Farley commented that on behalf of AAR they are pursuing a flat increase for the ADRE to meet the statutory minimum of 95 percent. He also commented that AAR understands the ADRE's concerns and tries to meet them while trying to meet the stakeholder concerns between brokers and homebuilders.

A discussion took place on how the Advisory Board could communicate with the Appropriations Committee Members to better support the ADRE's budgetary needs.

Chairman Brown asked for an explanation on what happens when the ADRE exceeds its timeframes. Ms. Wilkinson explained that the application fee must be refunded and the ADRE must finish processing the application regardless of the refund. Mr. Simmonds explained there is also a fine based on the delay to grant or deny the license beyond the timeframe deadline.

**Request from the Arizona Association of Realtors®**

Advisory Board Member Lisa Suarez announced a request from the Arizona Association of Realtors® through a memo dated January 3, 2005 from Frank Dickens, Chairperson of the AAR's ADRE Oversight Group. This memo was addressed to Ms. Suarez and other Board members. Ms. Suarez explained that the purpose of this memo was to ask the Department to provide more input and suggestions (based on ADRE's sanction activity information) to AAR so that AAR could provide more preventative measures to its members regarding brokerage regulation.

**X. CALL TO THE PUBLIC**

There were no public comments. Stephanie Aguirre of Williams and Associates was present representing the Arizona Real Estate Investors Association. She is attending real estate meetings to get involved in all aspects so she can report back to that industry.

**XI. ADJOURNMENT**

Chairman Brown adjourned the meeting at 11:40 a.m.

DATED THIS 21st day of April 2005.

**ARIZONA REAL ESTATE ADVISORY BOARD**

By: \_\_\_\_\_

**R. L. Brown, Chairman**